

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

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In re: PEKINPAUGH, MICHAEL,  Debtor(s)	Case No. 11-15107 SAH  Chapter 7
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**TRUSTEE'S MOTION TO TURN OVER PROPERTY OF THE ESTATE**

**AND**

**BRIEF IN SUPPORT THEREOF**

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COMES NOW, John D. Mashburn, Trustee, and in support of the above-captioned Motion respectfully represents and shows to the Court the following:

1. Beginning on or about May 15, 2015, the Trustee received correspondence from Wells Fargo Financial, Inc., (hereafter "Wells Fargo"), regarding the debtor's mortgage with them and an order-settlement with the Federal Reserve Board directing Wells Fargo to remedy lending practices with certain mortgage holders including debtor (occurring prepetition) which settlement includes a lump sum cash component as well as a reduction in the interest rate for debtor's remaining mortgage.
2. The Trustee has notified Wells Fargo of the pending bankruptcy and that the asset is property of the bankruptcy estate. However, Wells Fargo has refused to pay the settlement award over to the Trustee absent an order from this Court directing payment of the same.
3. The cash component of said settlement ordered by the Federal Reserve Board is \$17,655.94 (hereafter the "Property").
4. Said Property is property of the estate pursuant to 11 U.S.C. §541.
5. Said Property is not subject to any perfected lien.

6. Said Property is not exempt.

7. Wells Fargo has failed and refused to turn over said Property.

8. By withholding said property, Wells Fargo is earning interest upon the same.

9. Pursuant to 11 U.S.C. §542(a) and (e), any entity “in possession, custody or control, during the case,” of property of the estate “shall deliver to the trustee, and account for, such property or the value of such property” and shall turn over to the Trustee any “recorded information, including books, documents, records, and papers, relating to the debtor’s property or financial affairs.”

10. The Trustee seeks an order of this Court directing the immediate delivery of said Property to the Trustee.

WHEREFORE, the Trustee prays the Court for an order directing Wells Fargo Financial, Inc., to remit to the Trustee said Property – payment of \$17,655.94 – within ten (10) days of the entry of the Order on this Motion, and that the Trustee have such other and further relief to which he may be entitled.

Respectfully submitted,

*s/ John Mashburn*  
John Mashburn, Trustee, OBA #12763  
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## NOTICE

**Your rights may be affected. You should read this document carefully and consult your attorney about your rights and the effect of this document.** If you do not want the Court to grant the requested relief, or you wish to have your views considered, you must file a written response or objection to the requested relief with the Clerk of the United States Bankruptcy Court for the Western District of Oklahoma, 215 Dean A. McGee Avenue, Oklahoma City, OK 73102 no later than 14 days from the date of filing of this request for relief. You should also serve a file-stamped copy of your response or objection to the undersigned Movant/Movant's attorney [and others who are required to be served] and file a certificate of service with the Court. If no response or objection is timely filed, the Court may grant the requested relief without a hearing or further notice. The 14 day period includes the three (3) days allowed for mailing provided for in Bankruptcy Rule 9006. service.

## CERTIFICATE OF SERVICE

This is to certify that, on the date of filing as set forth in the Clerk's filing stamp above, a true and correct copy of the above and foregoing was served by mailing the same, first-class postage prepaid, to:

Attn: Alita Bowman  
Wells Fargo Financial Consent Order  
Claims Administrator  
PO Box 6515  
Portland OR 97228-6515

*s/ John Mashburn*  
JOHN MASHBURN